

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

FAIR ISAAC CORPORATION, A *DELAWARE*
CORPORATION,

PLAINTIFF,

V.

FEDERAL INSURANCE COMPANY, AN *INDIANA*
CORPORATION,

DEFENDANT.

CIVIL No. 16-CV-1054 (WMW/TNL)

**PRETRIAL SCHEDULING
ORDER**

Pursuant to Rule 16 of the Federal Rules of Civil Procedure and the Local Rules of this Court, and in order to secure the just, speedy, and less expensive determination of this action, the following schedule shall govern these proceedings. This schedule may be modified only upon formal motion and a showing of good cause as required by D. Minn. LR 16.3.

1. Fact Discovery

- a. All pre-discovery disclosures required by Fed. R. Civ. P. 26(a)(1) shall be completed on or before March 17, 2017.
- b. Fact discovery shall be commenced in time to be completed on or before March 1, 2018.
- c. No more than 25 Interrogatories, counted in accordance with Fed. R. Civ. P. 33(a), shall be served by any party.
- d. Each party agrees to abide by the Federal Rules of Civil Procedure and the Local Rules with respect to Document Requests.
- e. Each party agrees to abide by the Federal Rules of Civil Procedure and the Local Rules with respect to Requests for Admission.
- f. No more than ten depositions, including third parties but excluding expert witness depositions, shall be taken by any party.
- g. On or before March 10, 2017, the parties shall jointly CM/ECF file a proposed stipulated Protective Order for the Court's review. The sealing of entire

pleadings, memoranda of law, exhibits, and the like is strongly discouraged. No document shall be filed under seal unless such document or information therein is genuinely confidential and/or there are *compelling* reasons to do so. Any party seeking to file a document under seal shall specifically review each document and the information therein to limit sealing only to the extent necessary.

- h. Any party claiming privilege or protection of trial-preparation materials shall serve on the party seeking discovery a privilege log that complies with the requirements in Fed. R. Civ. P. 26(b)(5).

2. ESI Discovery Plan

- a. The parties shall preserve all electronic documents that bear on any claims, defenses, or the subject matter of the lawsuit. On or before March 10, 2017, the parties shall jointly CM/ECF file a stipulated ESI Discovery Plan.

3. Expert Discovery

- a. Each party may call no more than three expert witnesses.
- b. Each party shall take no more than one deposition per expert.
- c. Disclosure of the identity of expert witnesses under Fed. R. Civ. P. 26(a)(2)(A) and the full disclosures required by Fed. R. Civ. P. 26(a)(2)(B), accompanied by the written report prepared and signed by the expert witness, shall be made as follows:
 - i. Plaintiff
 - 1. Identification by Plaintiff on or before April 1, 2018.
 - 2. Report by Plaintiff on or before April 1, 2018.
 - 3. Rebuttal witness and reports shall be disclosed on or before May 1, 2018.
 - 4. Reply reports shall be served on or before May 15, 2018.
 - ii. Defendant
 - 1. Identification by Defendant on or before April 1, 2018.
 - 2. Report by Defendant on or before April 1, 2018.
 - 3. Rebuttal witness and reports shall be disclosed on or before May 1, 2018.
 - 4. Reply reports shall be served on or before May 15, 2018.
- d. Expert discovery, including depositions, shall be completed on or before July 1, 2018.

4. Non-Dispositive Motions

- a. Non-dispositive motions may be scheduled for hearing by calling the Court's Judicial Assistant and Calendar Clerk, Holly McLelland, at 651-848-1870.
- b. All motions which seek to amend the pleadings, including without limitation, a motion for leave to amend to add parties must be served on or before June 1, 2017.
- c. Motions for leave to amend to add punitive damage claims must be served and filed on or before November 1, 2017.
- d. Except as to non-dispositive motion deadlines specifically set forth elsewhere in this Order, all non-dispositive motions and supporting documents, including those which relate to discovery, shall be served and filed on or before March 1, 2018.
- e. All non-dispositive motions and supporting documents which relate to expert discovery shall be filed and served on or before July 1, 2018.
- f. Prior to scheduling any non-dispositive motion, parties are strongly encouraged to consider whether the motion, including motions relating to discovery and scheduling, can be informally resolved through telephone conference with the Magistrate Judge. All non-dispositive motions shall be scheduled, filed and served in compliance with the Electronic Case Filing Procedures for the District of Minnesota and in compliance with D. Minn. LR 7.1 and 37.1.
- g. At the Rule 16 Scheduling Conference, the Court advised the parties that it is willing to resolve non-dispositive disputes between the parties on an informal basis via a telephone conference. However, before the Court will agree to proceed with this informal resolution mechanism, the "meet and confer" required by Fed. R. Civ. P. 37(a)(1) and D. Minn. LR 37.1 must have taken place, and all parties to the dispute must agree to use this informal resolution process as the very nature of the process is such that the parties are giving up rights they would otherwise have (e.g., the dispute is heard over the phone; there is no recording or transcript of the phone conversation; no briefs, declarations or sworn affidavits are filed). If the parties do agree to use this informal resolution process, one of the parties shall contact Magistrate Judge Leung's chambers to schedule the conference. The parties shall submit short letters prior to the conference to set forth their respective positions. The requesting party shall submit its letter 7 days prior to the conference; the responding party shall submit its letter 4 days prior to the conference. The Court will read the written submissions of the parties before the phone conference, hear arguments of counsel at the conference, and if no one changes their decision during the phone conference regarding their willingness to participate in this informal resolution process, the Court will issue its decision at the conclusion of the phone conference or shortly after the conference. Depending on the nature of the dispute, the Court may or may not issue a written order. If

there is no agreement to resolve a dispute through this informal resolution process, then the dispute must be presented to the Court via formal motion and hearing.

5. Dispositive Motions

- a. All dispositive motions shall be filed, served and scheduled on or before September 1, 2018.
- b. Counsel shall first schedule the hearing at least 42 days in the future by calling Judge Wright's Courtroom Deputy, Terianne Bender, at 651-848-1640. After the moving party has secured a hearing date, the moving party shall promptly inform all parties of the nature of the motion and the date, time, and location of the hearing.
- c. All dispositive motions shall be filed and served in compliance with the Electronic Case Filing Procedures for the District of Minnesota and in compliance with Local Rule 7.1, except that any reply memorandum or notice stating that no reply will be filed must be filed and served within 7 days after the filing of any response. When a motion, response or reply brief is filed on ECF, two paper courtesy copies of the pleading and all supporting documents shall be mailed to Courtroom Deputy Terianne Bender or delivered to the clerk of courts.
- d. Parties are expected to be familiar with and adhere to the Federal Rules, the Local Rules, and any supplementation of those rules outlined in Judge Wright's Practice Pointers and Preferences, available on the District of Minnesota website.

6. Status & Settlement Conferences

- a. The parties shall appear for a settlement conference with the Court on May 18, 2017 at 10:00 a.m.
- b. On or shortly before September 1, 2017, February 1, 2018, and August 1, 2018, counsel for each party shall submit three CONFIDENTIAL letters to the Court setting forth with reasonable specificity the status of the case; the relative strengths and weaknesses of each party's position; an update of efforts toward settlement; the last settlement positions of the parties; whether a settlement conference with a private mediator or the court would be productive; and a litigation budget. Each letter shall not exceed three pages. On or shortly before the date each such letter is due, counsel for the parties shall meet and confer to discuss the status of the case and discuss settlement.
- c. A final settlement conference shall be scheduled by the Court on a later date when needed.

7. Trial

- a. This case shall be ready for a Jury trial on January 15, 2019.
- b. Anticipated length of trial is ten days.

8. Prior Orders and Remedies

- a. All prior consistent orders remain in full force and effect.
- b. Failure to comply with any provision of this Order or any other prior consistent Order shall subject the non-complying party, non-complying counsel and/or the party such counsel represents to any and all appropriate remedies, sanctions and the like, including without limitation: assessment of costs, fines and attorneys' fees and disbursements; waiver of rights to object; exclusion or limitation of witnesses, testimony, exhibits and other evidence; striking of pleadings; complete or partial dismissal with prejudice; entry of whole or partial default judgment; and/or any other relief that this Court may from time to time deem appropriate.

IT IS SO ORDERED.

Dated: February 28, 2017

s/Tony N. Leung
Magistrate Judge Tony N. Leung
United States District Court
District of Minnesota

*Fair Isaac Corporation v. Federal
Insurance Company
16-cv-1054 WMW/TNL*